

Nos. 11,648 and 11,649

IN THE

United States Court of Appeals

FOR THE NINTH CIRCUIT

E. L. EASON, JR.,

Appellant,

vs.

UNITED STATES OF AMERICA,

Appellee,

and

E. L. EASON, JR., FLORA RUTH EASON and LEWIS C. EASON, as Trustee of the Estate of Mildred Eason Stouffer, co-partners doing business as Eason Grinding Company,

Appellants,

vs.

UNITED STATES OF AMERICA,

Appellee.

APPELLEE'S BRIEF.

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APPELLEE'S BRIEF.

Jurisdictional Statement.

Jurisdiction of the District Court is established by Section 24 of the Judicial Code, as amended (28 U. S. C., 41), and by the provisions of Section 403(c) of the Renegotiation Act.

Jurisdiction of this Court is established by the provisions of Section 28, U. S. C., 225.

Appellee brought separate actions in the District Court pursuant to Section 403(c) of the Renegotiation Act to recover amounts which the Under Secretary of War, acting under and by virtue of the Renegotiation Act, had duly determined to be excessive profits realized by the defendants during each of the fiscal years ended 1942 and 1943. After a trial on the merits, judgment was rendered against the defendants for the principal amounts and interest as prayed for in each Complaint. Interest in each case was computed at the rate of six per cent per annum from and after the date of determination by the Under Secretary of War of the principal amount due to the date of entry of judgment. [R. 16 and 40.]

Statement of the Case.

The statement of the case contained in Appellants' Brief, from pages 3 to 6, is fair and accurate and is adopted by Appellee.

Question Presented.

The sole question on each appeal is whether the District Court erred in allowing the United States interest on the balance determined by the Under Secretary of War to be due pursuant to the Renegotiation Act.

Argument.

The precise question presented and argued by the Appellants herein was decided by this Court in the case of *Sampson Motors, Inc.*, No. 11644, decided June 21, 1948 (168 F. 2d 878), which upheld the judgment of the District Court allowing interest on the balance found due the United States after tax allowance resulting from renegotiation of war contracts.

It is submitted that the decision of this case is controlled by the opinion in the *Sampson* case.

Respectfully submitted,

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